COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
NORTHERN REGIONAL OFFICE
13901 Crown Court, Woodbridge, Virginia 22193
(703) 583-3800 Fax (703) 583-3821
www.deq.virginia.gov

Douglas W. Domenech
Secretary of Natural Resources

David K. Paylor
Director

Thomas A. Faha
Regional Director

STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
HAHN TRANSPORTATION, INCORPORATED

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.34:20, between the State Water Control Board and Hahn Transportation, Incorporated for the purpose of resolving certain violations of the State Water Control Law and the applicable regulations.

SECTION B: Definitions

Unless the context indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.

2. "Containment and cleanup" means abatement, containment, removal and disposal of oil and, to the extent possible, the restoration of the environment to its existing state prior to an oil discharge.

3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

5. "Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying or dumping.

6. "Hahn" means Hahn Transportation, Incorporated, a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Hahn Transportation, Incorporated is a "person" within the meaning of Va. Code § 62.1-44.3.

7. "Location" means the facility, land, road, storm drain(s) or state water(s) where the oil discharge occurred. The location is located on Sudley Manor Drive at the entrance to Braemar Village Plaza in Bristow, Virginia. The Location consists of a shopping center and associated storm water management pond. The shopping center has several businesses, including a children's day care facility, grocery store, restaurants, and a gas station. Several residential neighborhoods are in the vicinity of the shopping center.

8. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

9. "Oil" means oil of any kind and in any form, including, but not limited to, petroleum and petroleum by-products, fuel oil, lubricating oils, sludge, oil refuse, oil mixed with other wastes, crude oils and all other liquid hydrocarbons regardless of specific gravity. *See* Va. Code §62.1-44.34:14.

10. "Operator" means any person who owns, operates, charters, rents or otherwise exercises control over or responsibility for a facility or a vehicle or vessel.

11. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.

12. "Person" means any firm, corporation, association or partnership, one or more individuals, or any governmental unit or agency thereof.

13. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.

14. "State Water Control Law" means Chapter 3.1(§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code. Article 11 (Va. Code §§ 62.1-44.34:14 through 62.1-44.34:23) of the State Water Control Law addresses discharge of oil into waters.

15. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.

16. "Va. Code" means the Code of Virginia (1950), as amended.

17. "VAC" means the Virginia Administrative Code.

18. "Vehicle" means any motor vehicle, rolling stock or other artificial contrivance for transport whether self-propelled or otherwise, except vessels.

SECTION C: Findings of Fact and Conclusions of Law

1. On July 11, 2013, at approximately 10:31pm, a vehicle operated by Hahn overturned on Sudley Manor Drive at the entrance to Braemar Village Plaza in Bristow, Virginia. Heavy rain was falling at the time of the incident.

2. The accident resulted in the discharge of approximately 7,817 gallons of oil in the form of gasoline. The discharged gasoline flowed into a nearby storm water collection system and flowed into a nearby privately owned storm water management pond. From the storm water management pond the gasoline discharged into Broad Run, a state water.

3. As a part of emergency response activities, Prince William County Department of Fire and Rescue personnel drilled one or more holes in the tank vehicle to facilitate removal of remaining gasoline.

4. Hahn, via a contractor, initiated containment and cleanup. Absorbent booms were placed in the storm water management pond and the Prince William County Department of Fire and Rescue sprayed foam to suppress vapors and reduce the risk of fire. A second vehichle was brought to the location in order to transfer the remaining gasoline before the overturned vehicle could be removed.

5. The shopping center was evacuated and an emergency shelter was opened at a neighboring Middle School for any residents who felt unsafe in their homes or who felt ill due to gasoline fumes. Neighboring residents were also advised not to start their vehicles until late morning on July 12, 2013.

6. DEQ staff responded to the location on July 12, 2013, and for several days after the incident. A sheen representative of gasoline was observed both in the storm water pond and downstream in Broad Run. Staff also observed approximately several hundred dead fish in the storm water pond, two dead turtles, one dead fish and five dead snakes downstream in Broad Run.

7. Soil samples and water samples were collected at the Location and surrounding affected areas. Based on the results of the sample analysis, DEQ has determined that no further remediation is required at this time.

8. An emergency response report was submitted by Hahn's contractor to DEQ on September 17, 2013.

9. Va. Code § 62.1-44.34:18 prohibits the discharge of oil into or upon state waters, lands, or storm drain systems that violate applicable water quality standards or cause a film or sheen upon or discoloration of the surface of the water.

10. On August 9, 2013, the Department issued Notice of Violation No. 2013-08-N-001 to Hahn for the discharge of oil to the land and state waters.

11. Based on the results of the July 12, 2013 and subsequent investigations, and the documentation submitted by Hahn, the State Water Control Board concludes that Hahn has violated Va. Code § 62.1-44.34:18 as described in paragraphs C(2) and C(3) above.

12. In order for Hahn to complete its return to compliance, DEQ staff and representatives of Hahn have agreed to the Schedule of Compliance which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 62.1-44.34:20, the Board orders Hahn, and Hahn agrees to:

1. Perform the actions described in Appendix A of this Order; and

2. Pay a civil charge of $200,000.00 within 30 days of the effective date of the Order, in settlement of the violations cited in this Order; and

3. Reimburse DEQ for investigative cost of $1,182.00 within 30 days of the effective date of the Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Hahn shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Petroleum Storage Tank Fund (VPSTF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Hahn shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Hahn for good cause shown by Hahn, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.

2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.

3. For purposes of this Order and subsequent actions with respect to this Order only, Hahn admits the jurisdictional allegations, and agrees not to contest, but neither admits nor denies the findings of fact, and conclusions of law in this Order.

4. Hahn consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.

5. Hahn declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.

6. Failure by Hahn to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.

8. Hahn shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Hahn shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Hahn shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

   a. the reasons for the delay or noncompliance;

   b. the projected duration of any such delay or noncompliance;

   c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and

d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.

10. This Order shall become effective upon execution by both the Director or his designee and Hahn. Nevertheless, Hahn agrees to be bound by any compliance date which precedes the effective date of this Order.

11. This Order shall continue in effect until:

    a. The Director or his designee terminates the Order after Hahn has completed all of the requirements of the Order;

    b. Hahn petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or

    c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Hahn.

    Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Hahn from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Hahn and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.

13. The undersigned representative of Hahn certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Hahn to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Hahn.

14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

15. By its signature below, Hahn voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2014.

_____
Jefferson D. Reynolds, Director of Enforcement
Department of Environmental Quality

Hahn Transportation, Incorporated voluntarily agrees to the issuance of this Order.

Date: 06/06/13 By: Barbara J. Windsor President & CEO
(Person) (Title)
Hahn Transportation, Incorporated

~~Commonwealth of Virginia~~ State of Maryland
City/County of Frederick

The foregoing document was signed and acknowledged before me this 6th day of June, 2014, by Barbara J. Windsor who is President & CEO of Hahn Transportation, Incorporated on behalf of the corporation.

Susan J Boyer
Notary Public

_____
Registration No.

My commission expires: 12.24.15

Notary seal:

APPENDIX A
SCHEDULE OF COMPLIANCE

Hahn Transportation, Incorporated shall:

1. Within 30 days of the execution of this consent order, provide a detailed status of vegetation in the wetland area of the Location. The report should include photographs of the area. Should the vegetation in the wetland area fail to show signs of re-growth satisfactory to DEQ, Hahn shall submit a corrective action plan to DEQ for approval within 30 days of notification from DEQ that further action is required. The plan and schedule contained in the corrective action plan shall be enforceable under this Order.